IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 17742 of 2007(K)

PETITIONER:

T.OMANA, U.D.CLERK,
OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER,
KOTTAYAM.

BY ADV. DR.K.P.KYLASANATHA PILLAY
SRI.M.AYYOOBUKHAN
SMT.K.L.SREEKALA
SMT.SREEDEVI KYLASANATH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS, OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTIONS, THIRUVANANTHAPURAM.

3. THE ASSISTANT EDUCATIONAL OFFICER, OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER, KOTTAYAM EAST, KOTTAYAM.

4. E.G.SOBHANA, U.D.CLERK, OFFICE OF THE DY.DIRECTOR OF EDUCATION, KOTTAYAM.

BY GOVERNMENT PLEADER SRIBIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 17742 of 2007-K

Dated this the 11th day of June, 2007.

J U D G M E N T

The petitioner is an Upper Division Clerk working under the third respondent. This writ petition is filed by her challenging Ext.P5 order. The brief facts of the case are the following.

2. The petitioner joined as L.D. Clerk in the Office of the Deputy Director of Education, Malappuram on 9-10-1980, on the advice of the P.S.C. She sought and obtained inter-district transfer and joined at Kottayam District on 5-11-1985. Since the petitioner was test qualified, she was promoted on 1-9-1988.

3. Though the petitioner was promoted on 1-9-1988, she was not included in the seniority list of U.D. Clerks for the period 1986-1988. She also complains that she was included in the seniority list of U.D. Clerks for the period 1989-1995 with date of promotion as 30-10-1995. So, she represented praying that her seniority position may be revised and she may be assigned seniority in the cadre of U.D. Clerk with effect from 1-9-1988. The said representation was rejected by Ext.P6. According to the author of Ext.P5, she is not entitled to get promotion as U.D. Clerk with effect from 1-9-1988.

But, assuming that she has seniority from 1985, she was earlier promoted with effect from 1-9-1988. Later, the mistake was noticed and having regard to her seniority in the L.D. Clerk from 5-11-1985, she is entitled to be promoted only with effect from 30-10-1995. So, the mistake was corrected and she was rightly assigned seniority. This is the stand taken in Ext.P5 by the Director of Public Instruction. The petitioner submits, there were several persons promoted ahead her who acquired qualifications only long after her. But, they are her seniors. But they need acquire qualifications as and when their turn for promotion arises. Secondly, the petitioner submits, she was not heard before seniority was unsettled and she is entitled to sit back. As evident from the materials produced in this case Ext.P3 seniority list was published only during 1993-94. Only at that time the list is published the mistake in granting promotion is detected and corrected. That was done in the case of the petitioner also. Since the petitioner does not have any case on merit, the technical contentions urged by her cannot be accepted.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS